

# Near Misses and Speaking Up

About 8 minutes to deliver

The injury you never have is the one somebody reported last month — and it is against federal law to be punished for reporting.

A near miss is an event that had everything an injury needed except the last piece of bad luck. The scaffold plank that flipped up and nobody was on it. The load that swung where somebody had been standing a minute earlier. The near miss and the fatality are the same event with different endings.

The only difference between a crew that reports them and one that does not is that the first crew gets to fix the problem before the endings change.

## YOUR RIGHTS, IN PLAIN TERMS

- You have the right to report an injury or an illness, and 1904.35(b)(1)(iv) makes it illegal for an employer to have any policy or practice that discourages you from doing it.
- Section 11(c) of the OSH Act makes retaliation illegal — you cannot be fired, demoted, reassigned, have hours cut, or be pushed out for reporting a hazard, reporting an injury, or filing a complaint with OSHA. If it happens, you have 30 days to file a complaint with OSHA.
- You can file a complaint and ask OSHA to inspect, and you can ask that your name not be given to your employer.
- You have the right to see the injury log, your own medical and exposure records, and the results of workplace testing.
- The OSHA poster required by 1903.2 has the phone number on it. It should be up where you can read it without asking anyone.

These rights do not depend on your immigration status. They apply to everyone who works.

## STOP WORK

Anybody on this crew can stop a job they believe is unsafe. Not just a supervisor. If you are wrong, we lose ten minutes finding that out — and nobody on this site gets any grief for it, ever. That is the deal, and if it is not being honoured, tell me.

## WHAT TO REPORT

- Anything that nearly went wrong. No paperwork required to start — say it out loud.
- Every injury, however small. A scratch that gets infected on Friday is a much bigger problem than a scratch reported on Monday.
- Anything you would not want your family to walk past. Damaged gear, a missing guard, a hole with no cover, a smell you cannot place.

The point is not blame. Blame is what makes the next person keep quiet, and the reason we know about most of what nearly happened on this site is that somebody chose to mention it.

## ASK THE CREW

- What nearly went wrong this week that we did not write down?
- Has anyone here ever kept quiet about something — and what would have made it easier to say?
- Is the OSHA poster up where everybody can read it?

29 CFR 1904.35 · 29 CFR 1903.2 · OSH Act § 11(c)

This is a toolbox talk, not a course. It is general awareness on one topic — not site-specific, not a hazard assessment, and not a substitute for assessment of your workplace by a competent person, your written programs, or manufacturers' instructions. It does not by itself satisfy any OSHA training requirement. Regulations change; verify against the current standard. Whoever delivers it is responsible for deciding it is suitable and sufficient for the work. Where a talk covers first aid, resuscitation, or mental health it is general safety information, not medical advice, not a substitute for professional medical care or certified emergency-response training, and it confers no certification — in an emergency, call 911. Free to print and use, as is, with no warranty of any kind. Migna Safety Solutions · [training.mignasafety.com](https://training.mignasafety.com)

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ATTENDANCE RECORD

Near Misses and Speaking Up

About 8 minutes to deliver · 29 CFR 1904.35 · 29 CFR 1903.2 · OSH Act § 11(c)

Date

Job / site

Delivered by

Company

| #  | Print name | Signature | Date |
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I delivered this talk and determined it was suitable for this crew and this work.

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